



Approved For Release 2002/08/15 : CIA-RDP85-00759R000100190012-3

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Executive Registry

79-441214

DD/A Registry

79-2640

AUG 7 1979

Honorable Stansfield Turner
Director
Central Intelligence Agency
Washington, D.C. 20505

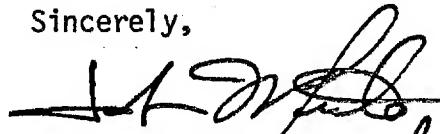
Dear Mr. Turner:

I understand that the Central Intelligence Agency is quite concerned about the effect of section 102 of H.R. 24 which would authorize the Comptroller General to bring an action in court to compel Executive branch agencies to produce information and grant him subpoena power to assist him in procuring contractor records.

As you know, OMB and other Executive branch agencies also have serious problems with this provision. My testimony of June 19 on this bill (enclosed) described in some detail our objections. Reports objecting to this provision have been sent to the House Government Operations Committee from the Department of Justice, Department of Defense and CIA.

If the bill passes the House with section 102, as presently written, still in it, we will continue to work against it vigorously in the Senate.

Sincerely,


James T. McIntyre, Jr.
Director

Enclosure

10 3 05

OL 9-3307

Approved For Release 2002/08/15 : CIA-RDP85-00759R000100190012-3

STAT

Approved For Release 2002/08/15 : CIA-RDP85-00759R000100190012-3

Next 1 Page(s) In Document Exempt

Approved For Release 2002/08/15 : CIA-RDP85-00759R000100190012-3



EXECUTIVE OFFICE OF THE PRESIDENT
Approved For Release 2002/08/15 : CIA-RDP85-00759R000100190012-3
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

FOR RELEASE AT 10:00 A.M.
TUESDAY, JUNE 19, 1979

REMARKS OF
JAMES T. MCINTYRE, JR., DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE
HOUSE COMMITTEE ON GOVERNMENT
OPERATIONS SUBCOMMITTEE ON
LEGISLATION AND NATIONAL SECURITY

H.R. 24 CONTAINS FIVE MAIN PROVISIONS, AS INTRODUCED, EACH OF THESE PROVISIONS PRESENTED SOME PROBLEMS FOR US AND FOR OTHER AGENCIES. IN THE PAST FEW DAYS WE AT OMB HAVE HAD AN OPPORTUNITY TO REVIEW AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 24 WHICH I UNDERSTAND YOU INTEND TO OFFER. WE BELIEVE THAT THIS AMENDMENT RESOLVES MANY OF THE MAJOR OBJECTIONS THAT WE AT OMB HAVE HAD. I AM PLEASED TO SEE HOW FAR WE HAVE COME ON H.R. 24 FROM THE SIGNIFICANT DIFFERENCES WE HAD AT THE BEGINNING. I APPRECIATE GREATLY THE GOOD FAITH AND HARD WORK THAT YOU AND YOUR FINE STAFF HAVE DEVOTED TO THESE IMPORTANT MATTERS, AND TO OTHER IMPORTANT LEGISLATION ON WHICH YOU HAVE ASSUMED SUCH A LEADERSHIP ROLE.

BECAUSE WE HAVE JUST RECENTLY RECEIVED THIS PROPOSED AMENDMENT, WE HAVE NOT HAD THE BENEFIT OF AGENCY COMMENTS UPON IT AND I THEREFORE CANNOT SPEAK FINALLY TO CONCERNS THAT THEY MAY HAVE. I NOTE, HOWEVER, THAT PROBLEMS THAT HAVE BEEN RAISED BY THE DEPARTMENT OF STATE, THE DEPARTMENT OF TREASURY, THE

DEPARTMENT OF JUSTICE, AND THE CENTRAL INTELLIGENCE AGENCY CONCERNING THE AUDITING OF ACCOUNTS THAT ARE PRESENTLY EXEMPT FROM AUDITING DUE TO A STATUTE, ARE NOT ADDRESSED BY THE AMENDMENT. WE HAVE PREVIOUSLY DISCUSSED AMENDMENTS TO ACCOMMODATE THESE CONCERNS, AND WE HAVE ATTACHED TO THIS STATEMENT SOME SUGGESTED LANGUAGE WHICH I HOPE THE COMMITTEE WILL CONSIDER FAVORABLY TO MEET CONCERNS PERTAINING TO CERTAIN LAW ENFORCEMENT ACTIVITIES. WE WILL ASK THE AGENCIES TO SEND TO THE COMMITTEE THEIR COMMENTS ON THE PROPOSED AMENDMENT AS SOON AS POSSIBLE. SOME OF THEM MAY WISH TO TESTIFY BEFORE YOU ON THIS BILL. I EXPECT THAT ANY PROBLEMS WHICH THE AGENCIES MAY HAVE THAT WE DO NOT RAISE IN THIS TESTIMONY WILL BE RELATIVELY MINOR.

UNVOUCHERED EXPENDITURES

SECTION 101 OF H.R. 24 AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE WOULD ALLOW THE COMPTROLLER GENERAL ACCESS TO WRITTEN RECORDS PERTAINING TO EXPENDITURES WHICH ARE NOW ACCOUNTED FOR SOLELY ON THE APPROVAL OR CERTIFICATE OF THE PRESIDENT OR OTHER EXECUTIVE OFFICIAL. THIS COMMITTEE'S REPORT LAST YEAR ON LEGISLATION SIMILAR TO H.R. 24 LISTED 28 ACCOUNTS FOR WHICH FUNDS HAD BEEN REQUESTED BUT WERE NOT SUBJECT TO AUDIT BY THE COMPTROLLER GENERAL. EACH INSTANCE IN WHICH THE COMPTROLLER GENERAL DOES NOT PRESENTLY HAVE THIS ACCESS IS SPECIFICALLY PROVIDED FOR BY LAW.

WE AGREE THAT THE COMPTROLLER GENERAL SHOULD AUDIT VIRTUALLY EVERY ACCOUNT. WE DO NOT BELIEVE, HOWEVER, THAT THIS LEGISLATION SHOULD REPEAL EVERY STATUTE THAT PROTECTS THE CONFIDENTIALITY OF CERTAIN EXPENDITURES. H.R. 24 AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE WOULD NOT REPEAL EVERY STATUTE IN THIS REGARD, OF COURSE, SINCE THEY DO NOT AFFECT CERTAIN AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE OR THE PRESIDENT FOR SENSITIVE FOREIGN INTELLIGENCE AND COUNTER-INTELLIGENCE ACTIVITIES. WE BELIEVE THAT THERE IS ALSO A NEED TO EXEMPT CERTAIN SENSITIVE DOMESTIC LAW ENFORCEMENT MATTERS AND THE PROTECTIVE ACTIVITIES OF THE UNITED STATES SECRET SERVICE. BASICALLY, THE LANGUAGE WE HAVE SUGGESTED WOULD EXEMPT FROM GAO AUDIT THE EXPENDITURES OF FUNDS APPROPRIATED BY CONGRESS FOR CONFIDENTIAL PURPOSES BUT ONLY TO THE EXTENT THAT ACCESS TO THE RECORDS WOULD DISCLOSE A CONFIDENTIAL OR SENSITIVE LAW ENFORCEMENT INVESTIGATION OR TECHNIQUES, OR ENDANGER THE SAFETY OF AGENTS, INFORMANTS AND CERTAIN OTHERS. THE SUGGESTED LANGUAGE WOULD ALSO EXEMPT THE PROTECTIVE ACTIVITIES OF THE UNITED STATES SECRET SERVICE.

THERE ARE INSTANCES WHERE THE NEED TO ENSURE THE CONFIDENTIALITY OF AN INFORMANT OR HIS FAMILY, FOR EXAMPLE, IS SO GREAT THAT NO POSSIBILITY OF COMPROMISE OF DISCLOSURE SHOULD BE PERMITTED. FURTHERMORE, THE MORE KNOWLEDGE THAT A LAW ENFORCEMENT AGENCY MAY HAVE TO CREATE RECORDS TO DEMONSTRATE THAT THE EXPENDITURE "WAS, IN FACT, ACTUALLY MADE AND ...

AUTORIZED BY LAW" AND THAT ALL THE EMPLOYEES OF GAO AND THE

CONGRESS MAY HAVE ACCESS TO THEM, MAY HAVE THE EFFECT OF FRIGHTENING AWAY A POTENTIAL INFORMANT.

WE ALSO SUGGEST THAT YOU CAREFULLY CONSIDER EXEMPTIONS FOR EXPENDITURES BY THE STATE DEPARTMENT PERTAINING TO THE SETTLEMENT OF EXPENSES OF INTERCOURSE WITH FOREIGN NATIONS WHICH HAVE BEEN EXEMPT BY STATUTE (31 U.S.C. 107) FOR ALMOST 200 YEARS; AND FOR CERTAIN EXPENDITURES APPROPRIATED TO THE SECRETARY OF THE TREASURY FOR TRANSACTIONS WITH FOREIGN GOVERNMENTS AND MONETARY AUTHORITIES AND CERTAIN EXCHANGE STABILIZATION FUND TRANSACTIONS (31 U.S.C. 882A).

SECTION 101 OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, UNLIKE H.R. 24, PROVIDES THAT THE PROCEDURES FOR EXAMINING THE EXPENDITURE OF CERTAIN FUNDS APPROPRIATED TO THE PRESIDENT SHALL BE THOSE PROCEDURES SET FORTH IN PUBLIC LAW 95-570, THE WHITE HOUSE AUTHORIZATION ACT, WHICH WAS REPORTED BY THIS COMMITTEE LESS THAN A YEAR AGO AND ENACTED INTO LAW. SINCE THE SUBJECT OF THE EXAMINATION OF THE FUNDS APPROPRIATED TO THE PRESIDENT WAS SPECIFICALLY CONSIDERED BY THE CONGRESS LESS THAN A YEAR AGO, WE BELIEVE THAT THE PROVISIONS MADE AS TO PRESIDENT ACCOUNTS SHOULD REMAIN AS THEY PRESENTLY ARE.

COMPTROLLER GENERAL SUBPOENAS AND LAWSUITS

H.R. 24 AS WELL AS THE AMENDMENT IN THE NATURE OF A SUBSTITUTE WOULD AUTHORIZE THE COMPTROLLER GENERAL FOR THE FIRST TIME TO BRING AN ACTION IN COURT TO COMPEL THE PRODUCTION OF INFORMATION FROM EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS.

HE WOULD ALSO BE GIVEN, AGAIN FOR THE FIRST TIME, THE AUTHORITY TO SUBPOENA AND SUE CERTAIN PARTIES HAVING A CONTRACTUAL RELATIONSHIP WITH THE UNITED STATES AND "OTHER NON-FEDERAL PERSONS OR ORGANIZATIONS TO WHICH HE HAS A RIGHT OF ACCESS BY ANY LAW OR AGREEMENT." PREVIOUSLY, THE COMPTROLLER GENERAL HAS BEEN GIVEN SUBPOENA AUTHORITY IN ONLY A HANDFUL OF SITUATIONS THAT HAVE BEEN CAREFULLY CIRCUMSCRIBED BY STATUTE AND LIMITED TO SPECIFIC SUBJECT MATTER AREAS COUPLED WITH CAREFULLY DEFINED PROCEDURES. HE DOES NOT HAVE THE AUTHORITY TO BRING COURT ACTION. WE BELIEVE THAT AUTHORITIES OF THIS NATURE SHOULD ONLY BE GIVEN IN NARROW, CAREFULLY CRAFTED, SPECIFIC TERMS. NEITHER H.R. 24 NOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TAKE THIS APPROACH.

SUITS FOR RECORDS PERTAINING TO CONTRACTS AND GRANTS

WE DO NOT OBJECT TO THE COMPTROLLER GENERAL BEING AUTHORIZED TO ISSUE SUBPOENAS TO OBTAIN CONTRACTOR AND SUBCONTRACTOR RECORDS TO WHICH HE HAS A RIGHT OF ACCESS BY STATUTE. THE STATUTES WHICH AFFORD HIM THIS ACCESS (SECTION 304 OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED, AND SECTION 2303 OF TITLE 10, UNITED STATES CODE) SHOULD BE SPECIFICALLY CITED, HOWEVER, SO AS TO AVOID UNCERTAINTY AS TO WHICH CONTRACTS AND UNDER WHAT CIRCUMSTANCES THE COMPTROLLER GENERAL MAY USE THIS AUTHORITY. THE BREADTH AND AMBIGUITY FOR THESE EXTRAORDINARY POWERS PRESENT EVEN GREATER PROBLEMS WITH REGARD TO GRANTS AND COOPERATIVE AGREEMENTS. IF OUR INTERPRETATION IS CORRECT THAT THE LANGUAGE CONCERNING "NON-FEDERAL PERSONS OR

AGREEMENT" IS INTENDED TO MEAN A GRANTEE OR PERSON WITH WHOM AN AGENCY HAS A COOPERATIVE AGREEMENT, THERE SHOULD BE A CITATION TO THE LAW WHICH CURRENTLY PERMITS ACCESS TO AVOID CONFUSION AND LITIGATION OVER COVERAGE. IT SHOULD ALSO BE MADE CLEAR THAT THESE PROVISIONS AND THE OTHER PROVISIONS OF THE BILL AND AMENDMENT ARE INTENDED TO APPLY PROSPECTIVELY. IT SHOULD ALSO BE MADE CLEAR THAT THIS PROVISION WOULD NOT AUTHORIZE THE COMPTROLLER GENERAL TO SUBPOENA AND SUE FOR DOCUMENTS OF, FOR EXAMPLE, A GOVERNMENT CONTRACTOR THAT DO NOT DIRECTLY PERTAIN TO THE CONTRACT.

SUITS AGAINST DEPARTMENTS AND ESTABLISHMENTS FOR ANY DOCUMENTS

THE COMPTROLLER GENERAL WOULD ALSO BE AUTHORIZED TO BRING AN ACTION AGAINST THE HEAD OF ANY DEPARTMENT OR ESTABLISHMENT FOR "ANY INFORMATION, BOOKS, DOCUMENTS, PAPERS, OR RECORDS" REGARDING "THE POWERS, DUTIES, ACTIVITIES, ORGANIZATION, FINANCIAL TRANSACTIONS, AND METHODS OF BUSINESS OF THEIR RESPECTIVE OFFICES AS HE MAY FROM TIME TO TIME REQUIRE OF THEM". THIS REMAINS AS THE MOST SIGNIFICANT PROVISION WITH WHICH WE CANNOT AGREE. PROCEDURALLY, THIS PROVISION WOULD AMEND SECTION 313 OF THE BUDGET AND ACCOUNTING ACT, 1921 (31 U.S.C.) WHICH IS THE SAME ACT WHICH CREATED THE GENERAL ACCOUNTING OFFICE. THE BULK OF THE INITIAL RESPONSIBILITIES ASSIGNED THE COMPTROLLER GENERAL BY THE ACT WERE AUDIT RELATED, AND SECTION 313 WAS DESIGNED TO ENSURE THAT THE AUDITOR HAD SOMETHING TO AUDIT. FOR ALMOST 60 YEARS, THE COMPTROLLER GENERAL HAS REQUESTED DOCUMENTS, RECEIVED THEM, AND HAS PERFORMED AUDITS. IN THAT SAME 60 YEARS, MANY ADDITIONAL DUTIES HAVE BEEN ASSIGNED TO THE COMPTROLLER GENERAL BY THE CONGRESS IN SUCH A NUMBER AND FASHION THAT THE GAO IS OFTEN REFERRED TO AS "AN ARM OF CONGRESS". IN CARRYING OUT THESE ADDITIONAL DUTIES, THE COMPTROLLER GENERAL HAS ALSO REQUESTED DOCUMENTS AND HAS BEEN AFFORDED ACCESS TO THEM. HE DOES NOT ALWAYS GET WHAT HE REQUESTS. THIS IS TRUE WHETHER HE IS MAKING THE REQUEST TO PURSUE AN ASSIGNMENT FROM A MEMBER OF CONGRESS OR

ON HIS OWN INITIATIVE. THE RECOURSE IN THE CASE THE AGENCY HAS DISAGREED HAS BEEN TO TRY TO WORK OUT WITH THE AGENCY HEAD CONCERNED AND, IF HE IS NOT SATISFIED WITH WHAT HE IS FURNISHED TO ASK CONGRESS TO COMPEL THE DISCLOSURE OF THE DISPUTED DOCUMENTS WHICH ARE NOT CONSTITUTIONALLY BEYOND ITS REACH.

THE CHANGING NATURE OF THE ACTIVITIES OF THE COMPTROLLER GENERAL OVER THE YEARS, SUCH THAT THE MAJORITY OF THE WORK OF GAO NO LONGER PERTAINS TO THE AUDITING OF FINANCIAL TRANSACTIONS OF THE GOVERNMENT, HAS SIGNIFICANTLY ALTERED WHAT 31 U.S.C. 54 PERMITS ACCESS TO. IN OTHER WORDS, WHILE THE NEED FOR RECORDS BY THE COMPTROLLER GENERAL WAS RELATED TO THE AUDIT OF FINANCIAL TRANSACTIONS, 31 U.S.C. 54 WAS ENTIRELY APPROPRIATE. THE CHANGING NATURE OF THE COMPTROLLER GENERAL'S DUTIES DID NOT REQUIRE A CHANGE IN 31 U.S.C. 54, HOWEVER, SINCE, IF THE DOCUMENTS AT ISSUE WERE THAT SENSITIVE, JUDGMENT OF THE CONGRESS WOULD BE BROUGHT TO BEAR ON THOSE SPECIFIC DOCUMENTS PRIOR TO THE INITIATION OF A LAW SUIT. H.R. 24 AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE WOULD CHANGE THAT AND PERMIT THE COMPTROLLER GENERAL TO SUE FOR VIRTUALLY ANY DOCUMENT OF ANY AGENCY WITHOUT INVOLVING THE JUDGMENT OF CONGRESS.

THE GIVE-AND-TAKE OF THE PRESENT PROCEDURE WITH ITS EMPHASIS ON ACCOMMODATION AND ULTIMATELY THE MOST SERIOUS DELIBERATIONS BY THE CONGRESS AND THE PRESIDENT PRIOR TO RESORT TO THE JUDICIAL BRANCH IS, WE BELIEVE, THE MOST APPROPRIATE AND PRUDENT COURSE TO FOLLOW. ISSUES OF A NATURE SERIOUS ENOUGH TO

Approved For Release 2002/08/15 : CIA-RDP85-00759R000100190012-3
INVOKING THE AID OF THE JUDICIARY HAVE NOT BEEN USED OFTEN, AND WE SHOULD NOT CREATE AN EASY PROCEDURE BY WHICH THE JUDICIARY MAY BE FLOODED WITH CASES WHICH WILL SEEK TO DRAW SHARP LINES BETWEEN THE BRANCHES OF OUR GOVERNMENT.

OF COURSE THERE WOULD BE FEW OF THESE CONFLICTS IF AGENCY HEADS WOULD NEVER WITHHOLD ANY INFORMATION REQUESTED. INDEED, BECAUSE THESE AGENCY HEADS ARE APPOINTED BY THE PRESIDENT WITH THE ADVICE AND CONSENT OF THE SENATE, WE EXPECT THAT WITHHOLDINGS WILL BE INFREQUENT. THEY ARE NOT FREQUENT, NOW. IF THERE ARE FREQUENT WITHHOLDINGS, CONGRESS HAS A VARIETY OF WAYS, INCLUDING COURT ACTION AS A LAST RESORT, TO CORRECT THE ACTION. BUT THERE ARE LEGITIMATE REASONS WHY AN AGENCY HEAD WOULD BE RELUCTANT TO DISCLOSE CERTAIN INFORMATION TO THE COMPTROLLER GENERAL. SOME OF THOSE REASONS ARE ALREADY ACKNOWLEDGED IN SECTION 101 OF H.R. 24 PERTAINING TO ACCESS TO DOCUMENTS FOR AUDIT PURPOSES. IN THAT SECTION (SECTION 101) THE COMPTROLLER GENERAL WOULD NOT BE AFFORDED ACCESS TO CERTAIN DOCUMENTS, AND WE HAVE URGED EXEMPTIONS FROM CERTAIN OTHERS. IN FACT, THE UNBOUNDED SCOPE OF THIS PROPOSED AMENDMENT TO SECTION 313 OF THE BUDGET AND ACCOUNTING ACT, 1921 (31 U.S.C. 54) COULD POTENTIALLY PERMIT THE COMPTROLLER GENERAL TO SUE TO COMPEL THE DISCLOSURE OF THE SAME DOCUMENTS WHICH SECTION 101 OF H.R. 24 WOULD DENY HIM ACCESS.

THIS PROVISION WOULD SIGNIFICANTLY AFFECT OTHER LAWS AS

WELL. THIS COMMITTEE HAS REPORTED, AND THERE HAVE BEEN ENACTED, A SERIES OF INFORMATION RELATED STATUTES IN WHICH THERE ARE VERY CAREFUL RULES ESTABLISHED GOVERNING WHEN INFORMATION MUST BE WITHHELD AND WHEN IT MUST BE DISCLOSED. THE CAREFUL BALANCES IN STATUTES SUCH AS THE FREEDOM OF INFORMATION ACT, THE PRIVACY ACT, THE GOVERNMENT IN THE SUNSHINE ACT AND THE ADVISORY COMMITTEE ACT, AS WELL AS COUNTLESS OTHER STATUTES, WOULD BE ALTERED BY THE FACT AND THE KNOWLEDGE THAT ALL OF THE INFORMATION WITHHOLDABLE UNDER THESE STATUTES AND OTHERS WILL BE AVAILABLE UPON REQUEST TO EACH EMPLOYEE OF GAO AND CONGRESS. FURTHERMORE, THERE ARE NO RESTRICTIONS UPON THE FURTHER DISCLOSURE OF THE INFORMATION, AND THE DETERMINATION OF THE "ARM OF CONGRESS" TO WITHHOLD INFORMATION FROM THE REST OF THE BODY OR EVEN A MEMBER OF IT IS NOT WELL DOCUMENTED. AND THIS WOULD COME AT A TIME WHEN THE CONCERN OF INDIVIDUALS WITH THEIR PRIVACY IS RISING. BUSINESS DOUBTS ARE INCREASING ABOUT THE ABILITY OF GOVERNMENT TO HOLD CONFIDENTIAL INFORMATION CONCERNING IT; AND THE WILLINGNESS OF PERSONS TO VOLUNTARILY OR ACCURATELY SUBMIT INFORMATION TO THE GOVERNMENT IS BECOMING A MATTER OF SERIOUS CONCERN. WE DO NOT BELIEVE THAT IT IS APPROPRIATE TO AUTHORIZE THE COMPTROLLER GENERAL TO HAVE THE ABILITY TO GAIN ACCESS TO CENSUS RETURNS, TAX RETURNS AND TAX RETURN INFORMATION, FOREIGN INTELLIGENCE INFORMATION AND OTHER SENSITIVE MATERIAL THAT MAY NOT BE AS IMPORTANT TO THE NEEDS OF THE COMPTROLLER GENERAL AS IT IS TO THOSE TO WHOM THE INFORMATION PERTAINS.

THE PROPOSED AMENDMENT WOULD VEST VIRTUALLY A STANDARD-LESS AUTHORITY IN THE COMPTROLLER GENERAL. THE ONLY BASIS FOR WITHHOLDING INFORMATION FROM EVEN THE BROADEST, AND MOST BURDENSOME OF REQUESTS WOULD BE A CONSTITUTIONALLY BASED PRIVILEGE. SUCH MEASURES ARE POTENTIALLY CONTENTIOUS AND INAPPROPRIATE.

WE WOULD PREFER THAT THE PROCEDURES BY WHICH THE COMPTROLLER GENERAL ACQUIRES DOCUMENTS REMAIN AS THEY ARE, SUPPLEMENTED BY THE OTHER PROVISIONS OF H.R. 24. WE HAVE SUGGESTED, HOWEVER, THAT IF CONGRESS BELIEVES THAT IT IS NECESSARY THAT COURT ACTION BE AFFORDED THE COMPTROLLER GENERAL THAT IT BE DONE IN A LIMITED AND CAREFULLY CIRCUMSCRIBED MANNER. WE DO NOT BELIEVE THAT SECTION 313 OF THE BUDGET AND ACCOUNTING ACT, 1921, CAN BE THE MECHANISM TO ACCOMPLISH THIS. IF THE PROBLEM CONCERNS ACCESS TO DOCUMENTS TO THE FINANCIAL TRANSACTIONS OF AGENCIES, 31 U.S.C 67 COULD BE AMENDED TO PERMIT THE COMPTROLLER GENERAL TO SUE FOR DISCLOSURE. WE HAVE ALSO OFFERED OTHER SUGGESTIONS TO AVOID THESE SERIOUS PROBLEMS.

AVAILABILITY OF DRAFT REPORTS

SECTION 103 OF H.R. 24 PERTAINING TO AGENCY COMMENTS OF GAO REPORTS WOULD BE AMENDED BY YOUR AMENDMENT IN THE NATURE OF A SUBSTITUTE IN SUCH A WAY THAT WE CAN SUPPORT IT. ALTHOUGH THE 30 DAY COMMENT TIME MAY BE DIFFICULT TO MEET IN EVERY INSTANCE, WE BELIEVE THAT THE PROVISION SUPPLIES SUFFICIENT

FLEXIBILITY FOR THESE UNUSUAL EVENTS. WE ARE PLEASED TO SEE THAT AGENCIES WILL HAVE AN OPPORTUNITY TO COMMENT UPON THE TENTATIVE RECOMMENDATIONS IN DRAFT REPORTS AS WELL AS THE FACTUAL DETERMINATIONS AND CONCLUSIONS.

APPOINTMENT OF THE COMPTROLLER GENERAL AND THE DEPUTY COMPTROLLER GENERAL

SECTION 104 OF H.R. 24 WOULD AMEND THE BUDGET AND ACCOUNTING ACT, 1921, TO ALTER THE MANNER BY WHICH THE COMPTROLLER GENERAL AND THE DEPUTY COMPTROLLER GENERAL ARE APPOINTED TO OFFICE. WE UNDERSTAND THAT CONGRESS DESIRES TO HAVE A GREATER ROLE IN THE APPOINTMENT PROCESS THAN THE CURRENT LAW PROVIDES, BUT UNTIL NOW, WE HAVE HAD THE MOST SERIOUS DIFFICULTIES WITH THE MANNER BY WHICH H.R. 24 WOULD INCREASE THAT ROLE. WE SUPPORT SECTION 104(A) OF YOUR AMENDMENT IN THE NATURE OF A SUBSTITUTE AS A CONSTRUCTION AND MEANINGFUL SOLUTION. IT WOULD AT THE TIME OF A FUTURE VACANCY IN EITHER OFFICE CAUSE THE ESTABLISHMENT OF A COMMISSION COMPOSED OF CONGRESSIONAL LEADERS TO RECOMMEND INDIVIDUALS TO THE PRESIDENT FOR HIS CONSIDERATION FOR APPOINTMENT TO SUCH OFFICE OR OFFICES.

SECTION 104(B) OF H.R. 24 AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE WOULD ALSO CHANGE THE BASIC TERMS OF THE DEPUTY COMPTROLLER GENERAL FROM FIFTEEN YEARS TO A PERIOD BEGINNING WITH THE DATE OF HIS APPOINTMENT UNTIL THE DATE THAT A NEW COMPTROLLER GENERAL IS APPOINTED. WE HAVE NO OBJECTION TO THIS PROVISION OR TO SECTION 104(C) OF H.R. 24.

THE INSPECTORS GENERAL AMENDMENTS

TITLE II OF H.R. 24 AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE WOULD AMEND THE LEGISLATION WHICH ESTABLISHED INSPECTORS GENERAL IN THE DEPARTMENT OF ENERGY AND HEALTH, EDUCATION, AND WELFARE. THESE AMENDMENTS WOULD CONFORM SOME OF THE PROVISIONS OF THE ENERGY AND HEW INSPECTORS GENERAL TO THE PROVISIONS IN THE LATER ENACTED INSPECTORS GENERAL ACT OF 1979 WHICH WAS ALSO REPORTED BY THIS COMMITTEE. AS WE UNDERSTAND THEM, THESE PROVISIONS ARE INTENDED TO FACILITATE COORDINATION BETWEEN THESE IMPORTANT OFFICES. WE SUPPORT THESE PROVISIONS.

#

ALTHOUGH THIS TESTIMONY HAS FOCUSED HEAVILY ON OUR REMAINING DISAGREEMENTS WITH AND SUGGESTIONS TO IMPROVE H.R. 24 AND THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, I WANT TO SAY AGAIN HOW PLEASED WE ARE WITH THE POSITIVE AND SIGNIFICANT IMPROVEMENTS WHICH YOUR AMENDMENT WOULD MAKE TO THIS LEGISLATION. WE HOPE THAT YOU CAN ACCEPT THE CHANGES I HAVE PROPOSED SO THAT WE MAY GIVE YOU OUR UNQUALIFIED SUPPORT.

On page 3, line 8, of the amendment in the nature of a substitute strike out the close quotation marks and the period thereafter and after such line insert the following new paragraph:

1 (4)(A) Nothing in this subsection shall be construed as
2 affecting the authority of the Attorney General or the
3 Secretary of the Treasury (hereinafter referred to in this
4 paragraph as "the Secretary") to exempt from the
5 provisions of paragraph (1) expenditures of those funds
6 appropriated for confidential purposes to the Attorney
7 General or the Secretary if the Attorney General or the
8 Secretary determines that disclosure of such expenditures
9 would expose--

10 (i) a confidential or sensitive law enforcement
11 investigation, investigative or intelligence techniques
12 or procedures, or endanger the safety of past or present
13 government agents, informants, other cooperating
14 individuals, or their families; or

15 (ii) protective activities of the United States
16 Secret Service pursuant to section 3056 of title 18,
17 United States Code, involving confidential sources,
18 means, or procedures

1 (B) The A-2002/08/15 : CIA-RDP85-00759R000100190012-3 as

2 appropriate, shall give notice of such exemption to the duly
3 established committees of the Congress having legislative or
4 oversight responsibilities, under the rules of the House of
5 Representatives or of the Senate, over the subject matter of
6 the expenditure.

7 (C) Such exemption and notice may be given by class or
8 category of expenditures.